

112TH CONGRESS  
1ST SESSION

# H. R. 2167

To amend the Securities Exchange Act of 1934 to change the threshold number of shareholders for required registration under that Act.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2011

Mr. SCHWEIKERT (for himself, Mr. HIMES, Mr. CANSECO, Mr. QUIGLEY, Mr. JONES, Mr. PERLMUTTER, Mrs. BIGGERT, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Securities Exchange Act of 1934 to change the threshold number of shareholders for required registration under that Act.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Private Company  
5 Flexibility and Growth Act”.

6 **SEC. 2. THRESHOLD FOR REGISTRATION.**

7 Section 12(g)(1)(B) of the Securities Exchange Act  
8 of 1934 (15 U.S.C. 78l(g)(1)(B)) is amended by striking  
9 “shall—” and all that follows through “register” and in-

1 sert “shall, within 120 days after the last day of its first  
2 fiscal year ended on which the issuer has total assets ex-  
3 ceeding \$10,000,000 and a class of equity security (other  
4 than an exempted security) held of record by 1,000 per-  
5 sons, register”.

6 **SEC. 3. ACCREDITED INVESTORS AND EMPLOYEES.**

7 Section 12(g)(5) of the Securities Exchange Act of  
8 1934 (15 U.S.C. 78l(g)(5)) is amended by adding at the  
9 end the following: “For purposes of determining whether  
10 an issuer is required to register a security with the Com-  
11 mission pursuant to paragraph (1), the definition of ‘held  
12 of record’ shall not include securities held by persons who  
13 qualify as accredited investors (as that term is defined by  
14 the Commission) or securities that are held by persons  
15 who received the securities pursuant to an employee com-  
16 pensation plan in transactions exempted from the registra-  
17 tion requirements of section 5 of the Securities Act of  
18 1933.”.

19 **SEC. 4. COMMISSION RULEMAKING.**

20 The Securities and Exchange Commission shall revise  
21 the definition of “held of record” pursuant to section  
22 12(g)(5) of the Securities Exchange Act of 1934 (15  
23 U.S.C. 78l(g)(5)) to implement the amendment made by  
24 section 2. The Commission shall also adopt safe harbor  
25 provisions that issuers can follow when determining

1 whether holders of their securities are accredited investors  
2 or that holders of their securities received the securities  
3 pursuant to an employee compensation plan in trans-  
4 actions that were exempt from the registration require-  
5 ments of section 5 of the Securities Act of 1933.

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